

1 Michael D. Kuznetsky, Esq., SBN 241045
mike@kuzlaw.com
2 KUZNETSKY LAW GROUP, P.C.
10 Universal City Plaza, Suite 2000
3 Universal City, CA 91608
(818) 753-2450, Fax: (818) 736-9099

4 Michael W. Fattorosi, Esq., SBN 193538
5 michael@fattlegal.com
LAW OFFICES OF MICHAEL W. FATTOROSI
6 5850 Canoga Avenue, Suite 400
Woodland Hills, California 91367
7 (818) 881-8500, Fax: (818) 881-9008

8 Attorneys for Plaintiff, XPAYS, INC.

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 XPAYS, INC., a Delaware Corporation,

14 Plaintiff,

15 vs.

16 DOES 1 through 995,

17 Defendants.
18
19

CASE NO. CV 11-05880 ODW
(FFMx)

[Assigned to the Honorable Otis D.
Wright II, Courtroom 11]

**DECLARATION OF MICHAEL
D. KUZNETSKY IN SUPPORT
OF PLAINTIFF'S EX PARTE
APPLICATION TO EXTEND
TIME FOR SERVICE OF THE
COMPLAINT**

Complaint Filed: July 18, 2011
Trial Date: Not Set

20
21
22 ///

23 ///

24 ///
25
26
27
28

1 I, Michael D. Kuznetsky, hereby declare:

2
3 1. I am an attorney licensed to practice before all courts located within the
4 State of California and in the United States District Court, Central District of California.
5 My State Bar Identification Number is 241045.

6 2. I am the owner of Kuznetsky Law Group, P.C., attorneys of record for
7 Plaintiff, XPAYS, INC., in this action.

8 3. The facts set forth herein are of my own personal knowledge, and if called
9 upon to testify as a witness, I could and would competently testify thereto.

10 4. Good cause exists to extend the time to serve the Complaint in this matter.

11 5. On July 22, 2011, subpoenas were drafted and sent out for service on each
12 of the nine relevant Internet Service Providers ("ISPs") in this matter

13 6. On or about August 1, 2011, I was contacted by my process server and was
14 informed that a subpoena was rejected by Verizon's agent for service of process. The
15 reason was that the ISP information on the subpoena did not exactly match the agent's
16 records. Thereafter, I undertook further research efforts to ascertain the exact
17 information needed to properly serve the subpoena. On August 1, 2011, I issued a
18 revised subpoena for Verizon.

19 7. The information used to correctly identify each of the ISPs in the subpoenas
20 was obtained at considerable cost to myself and Plaintiff's counsel Mr. Michael W.
21 Fattorosi.

22 8. Plaintiff has entered into agreements with four of the ISPs establishing a
23 time schedule for production of the identifying information for the subpoenaed Internet
24 Protocol ("IP") addresses. These agreements were entered into as a compromise
25 between Plaintiff and the ISPs as a matter of judicial economy. The ISPs alleged that
26 production of the subpoenas all at once was allegedly unduly burdensome, and the
27 parties voluntarily sought to resolve this dispute without Court intervention. Such
28 agreements include obtaining the identifying information of approximately 40 to 50 IPs

1 per month per ISP,
2 notwithstanding any motions to quash that may be filed which would delay the release
3 of this information.

4 9. Plaintiff and Plaintiff's counsel has yet to receive the identifying
5 information for many of the DOE defendants in this matter.

6
7 I swear under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9
10 Executed on October 31, 2011, at Toluca Lake, California.

11
12 /S/ Michael Kuznetsky
Michael D. Kuznetsky, Declarant